In the Supreme Court of the United States

OCTOBER TERM, 1971

No. 70-356

JOSEPH L. GORDON, PETITIONER

v.

JAMES K. ADCOCK

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

We invite the Court's attention to the following facts, which demonstrate that the petition for a writ of certiorari was filed out of time. The judgment of the court of appeals was entered on March 30, 1971. The time for filing a petition for a writ of certiorari was not extended, and, accordingly, the 90-day period provided by 28 U.S.C. 2101(c) for petitioning in civil cases expired on June 28, 1971. The petition was filed on June 29, 1971.

Since the time limit contained in 28 U.S.C. 2101 (c) is jurisdictional, see *Department of Banking* v. *Pink*, 317 U.S. 264, 268, the petition should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

JULY 1971.

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